

1 **REMOVAL OF COUNTY OR PROSECUTION**
2 **DISTRICT OFFICER AMENDMENTS**

3 2006 GENERAL SESSION

4 STATE OF UTAH

5 **Chief Sponsor: Scott L Wyatt**

6 Senate Sponsor: Darin G. Peterson

7
8 **LONG TITLE**

9 **General Description:**

10 This bill modifies provisions relating to county or prosecution district officers.

11 **Highlighted Provisions:**

12 This bill:

- 13 ▶ provides that a county or prosecution district officer charged with a felony arising
- 14 from official conduct is entitled to return to office if the charges are dismissed or the
- 15 officer is acquitted but shall be removed from office if the officer is convicted of a
- 16 felony or attempt to commit a felony arising from conduct related to the officer's
- 17 official duties;
- 18 ▶ provides that a conviction or plea of guilty or nolo contendere to a felony charge
- 19 arising from official conduct constitutes malfeasance in office;
- 20 ▶ provides that the removal process resulting from a conviction does not replace
- 21 another statutory removal process; and
- 22 ▶ eliminates a provision calling for county legislative body supervision of a person
- 23 employed to discharge temporarily the duties of an officer on administrative leave.

24 **Monies Appropriated in this Bill:**

25 None

26 **Other Special Clauses:**

27 None

28 **Utah Code Sections Affected:**

29 AMENDS:

30 17-16-10.5, as enacted by Chapter 206, Laws of Utah 1999



31
32 *Be it enacted by the Legislature of the state of Utah:*

33 Section 1. Section 17-16-10.5 is amended to read:

34 **17-16-10.5. Failure to perform duties constitutes malfeasance in office -- Felony**
35 **charges arising from official duties -- Paid administrative leave -- Reassignment of duties.**

36 (1) The failure of an elected county or prosecution district officer substantially to
37 perform the officer's official duties constitutes malfeasance in office under Section 77-6-1.

38 (2) (a) If an elected county or prosecution district officer is charged with the
39 commission of a felony arising from conduct related to the officer's official duties, the officer
40 shall be placed on paid administrative leave by the county legislative body until [~~a court of~~
41 ~~competent jurisdiction disposes of the charges.];~~

42 (i) the charges are dismissed or the officer is acquitted, at which time the officer shall
43 be entitled to return to office, unless the officer's term of office has in the meantime expired; or

44 (ii) the officer is convicted of a felony or attempt to commit a felony arising from
45 conduct related to the officer's official duties, in which case the sentencing judge shall order the
46 officer removed from office.

47 (b) A conviction or a plea of guilty or nolo contendere, relating to a felony charge
48 described in Subsection (2)(a), constitutes malfeasance in office for purposes of Section
49 77-6-1.

50 (c) Entry of a plea in abeyance is the equivalent of a conviction for purposes of
51 Subsection (2)(a)(ii), even if the charge is later dismissed pursuant to a plea in abeyance
52 agreement.

53 (d) The provisions under this Subsection (2) for the removal of a county or prosecution
54 district officer are in addition to and do not replace or supersede the removal provisions under
55 Title 77, Chapter 6, Removal by Judicial Proceedings.

56 (3) (a) During the time that an elected county or prosecution district officer is on paid
57 administrative leave under Subsection (2), the officer's duties may, except as provided in

58 Subsection (3)(c), be temporarily:

59 (i) reassigned to another officer by the county legislative body; or

60 (ii) performed by a person employed for that purpose[~~; under the supervision of the~~
61 ~~county legislative body~~].

62 (b) For purposes of Subsection (3)(a) with respect to a prosecution district officer in a
63 multi-county prosecution district, "county legislative body" means the legislative bodies of all
64 counties included in the prosecution district.

65 (c) A reassignment under Subsection (3)(a) may not result in the same person
66 exercising the duties of:

67 (i) both a county legislative body member or county treasurer and county auditor; or

68 (ii) both a county executive and county auditor.